

REMARKS

Claims 1, 4-6 and 12-13 currently are pending. Claims 1, 12 and 13 have been amended. Claims 2, 3, and 7-11 are canceled.

Claims 12-13 are rejected under 35 USC § 112, second paragraph, and under 35 USC § 101, as being use claims.

In response, applicants amend claims 12-13 into proper statutory claims.

Claims 1 and 4 are rejected under 35 USC § 102(b) as being anticipated by Nicholas et al. (US 3,668,034). The Examiner states that Nicholas et al. disclose a layer material comprising a backing layer formed of thermoplastic material and an intermediate layer with an outer metalized film where the layered material has an outer decorative layer and that Nicholas et al. disclose the metalized film is made of chrome having an intermediate layer formed of thermoplastic material.

Applicants amend claim 1 and it now recites a substrate layer made of thermoplastic propylene homopolymer and an intermediate layer comprising a non-woven composed of polypropylene prepared in the presence of a metallocene catalyst in combination with a heat cured layer. Anticipation can only be established by a single prior art reference which discloses each and every element of the claimed invention.. *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444 221 USPQ 385, 388 (Fed. Cir. 1984). Nicholas et al. do not teach each of every element of claim 1 as amended because they do not teach a substrate layer made of thermoplastic propylene homopolymer and an intermediate layer comprising a non-woven composed of

polypropylene prepared in the presence of a metallocene catalyst in combination of a heat cured layer.

Claims 2-3 and 5-6 are rejected under 35 USC § 103(a) as being unpatentable over Nicholas et al. (US 3,668,034) in view of Vinod (US 5,965,232). Although Nicholas et al. do not disclose a heat cured layer or the substrate made of polypropylene, the examiner believes Vinod et al. teach a layered composite material comprising a decorative layer, intermediate layer and lower layer coated with a protective coating where the coating is heat cured and the lower layer is made of polypropylene.

Applicants believe Vinod et al. is non-analogous art.

The examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. MPEP § 2141.01(a). In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992).

Vinod teaches improvements in floor coverings. The present invention relates to improvements in mechanical and thermal stability of reflectors for radiant heat or light (page 3, line 1 of the specification). These fields are far enough that Vinod would not logically have commended itself to an inventor's attention. This is the standard in *Wang Laboratories Inc. v. Toshiba Corp.* 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993).

To establish *prima facie* obviousness of a claimed invention, all the claim

limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 9812, 180 USPQ 580 (CCPA 1974). The combination of Nicholas et al. and Vinod et al. does not teach nor suggest each and every element of amended claim 1 because the intermediate layer comprising a non-woven composed of a polypropylene prepared using a metallocene catalyst is neither taught nor suggested by the combination.

For the reasons expressed above, it is urged that the prior art references cited by the examiner either singly or in combination fail to anticipate or suggest the present invention as defined by the amended claims. Accordingly, a *prima facie* case of obviousness has not been established by the examiner, and the rejection under 35 USC § 103 should be withdrawn.

A check in the amount of \$410.00 is attached to cover the required two month extension fee.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 11-0345. Please credit any excess fees to such deposit account.

Respectfully submitted,
KEIL & WEINKAUF



Daniel S. Kim
Reg. No. 51877

1350 Connecticut Ave., N.W.
Washington, D.C. 20036
(202)659-0100
DSK/kas

MARKED-UP VERSION SHOWING CHANGES MADE

IN THE CLAIMS

Cancel claims 2, 3 and 7-11.

Amend claims 1, 12 and 13 as follows:

1. (amended) A layered composite material which comprises a substrate made from a thermoplastic propylene homopolymer, and comprises an intermediate layer comprising a non-woven ^{what to} composed of a polypropylene ^{- prep} prepared in presence of a metallocene catalyst arranged thereupon and a decorative layer applied to the intermediate layer, where the decorative layer is composed of a chromed metal and where a heat cured layer has also been applied to the decorative layer. ^{- prep}
12. (amended) ~~A method of using the layered composite material as claimed in claim 1 as~~
~~a~~ A reflecting part of a household device, of a piece of furniture or of a molding in the electrical, construction or automotive industry or in the health sector, comprising the layered composite material as claimed in claim 1.
13. (amended) ~~A method of using the layered composite material as claimed in claim 1 as~~
~~an~~ An insulating part of a household device, of a piece of furniture or of a molding in the electrical, construction or automotive industry or in the health sector, comprising the layered composite material as claimed in claim 1.

not elected
based on
prior art

COMPLETE LISTING OF ALL CLAIMS IN THE APPLICATION

SUB
B1
1. (amended) A layered composite material which comprises a substrate made from a thermoplastic propylene homopolymer, and comprises an intermediate layer comprising a non-woven composed of a polypropylene prepared in presence of a metallocene catalyst arranged thereupon and a decorative layer applied to the intermediate layer, where the decorative layer is composed of a chromed metal and where a heat cured layer has also been applied to the decorative layer.

2. (canceled)

3. (canceled)

4. (original) A layered composite material as claimed in claim 1, where the intermediate layer is composed of a thermoplastic.

5. (original) A layered composite material as claimed in claim 1, where the intermediate layer and the substrate are composed of the same thermoplastic.

6. (original) A layered composite material as claimed in claim 1, the total thickness of which is from 0.5 to 100 mm, at least 80% of which is made up by the substrate.

12. (amended) A reflecting part of a household device, of a piece of furniture or of a molding in the electrical, construction or automotive industry or in the health sector, comprising the layered composite material as claimed in claim 1.

SUB
B1
13. (amended) An insulating part of a household device, of a piece of furniture or of a molding in the electrical, construction or automotive industry or in the health sector, comprising the layered composite material as claimed in claim 1.